

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>DATE FILED: June 6, 2006</b>
<b>v.</b>	<b>:</b>	<b>CRIMINAL NO. 06-</b>
<b>LEE BLATT</b>	<b>:</b>	<b>VIOLATIONS:</b>
<b>HERLEY INDUSTRIES</b>	<b>:</b>	<b>18 U.S.C. § 1343 (wire fraud – 29 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 1516 (obstruction of a federal audit – 2 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 1031 (major fraud against the United States – 1 count)</b>
	<b>:</b>	<b>18 U.S.C. § 1001 (false statement to government – 3 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 2 (aiding, abetting and causing)</b>
	<b>:</b>	<b>Notice of forfeiture</b>

**INDICTMENT**

**THE GRAND JURY CHARGES THAT:**

**INTRODUCTION**

At all times relevant to this indictment:

1. Defendant HERLEY INDUSTRIES, INC. (“HERLEY INDUSTRIES”) designed and manufactured microwave systems and electronic components primarily for the United States government and its prime contractors in the defense and aerospace industries. Defendant HERLEY INDUSTRIES’ corporate headquarters was in Lancaster, Pennsylvania.
2. Defendant HERLEY INDUSTRIES, a Delaware corporation, was publicly owned and traded on the NASDAQ exchange.

3. Defendant HERLEY INDUSTRIES had business and manufacturing facilities in among other places Lancaster, Pennsylvania; Woburn, Massachusetts; Chicago, Illinois; Nashua, New Hampshire; and Farmingdale, New York. Defendant HERLEY INDUSTRIES grew, in part, by acquiring businesses. When it acquired a new company, HERLEY INDUSTRIES made it a division of HERLEY INDUSTRIES, but continued to call its new division by the company's old name. Early in its growth, HERLEY INDUSTRIES acquired Vega Precision Laboratories. Thereafter, HERLEY INDUSTRIES' Lancaster manufacturing division was called "Herley-Vega." In 1999, defendant HERLEY INDUSTRIES acquired General Microwave, a company located in Farmingdale (Long Island), New York, and that company became the "General Microwave" division of HERLEY INDUSTRIES. As part of that acquisition, HERLEY INDUSTRIES took over General Microwave's business and contracts. Similarly, in 2000 defendant HERLEY INDUSTRIES acquired Robinson Labs, a company located in Nashua, New Hampshire. After the acquisition, the company became the "Robinson Labs" division of HERLEY INDUSTRIES.

4. Defendant LEE BLATT, an engineer, was a founder and the Chairman of the Board of Herley Industries. For a period ending in 2001, defendant BLATT was also defendant HERLEY INDUSTRIES' Chief Executive Officer. Defendant BLATT had an office and administrative assistant in Lancaster, Pennsylvania, although he worked for extended periods of time from his homes in Florida and Massachusetts.

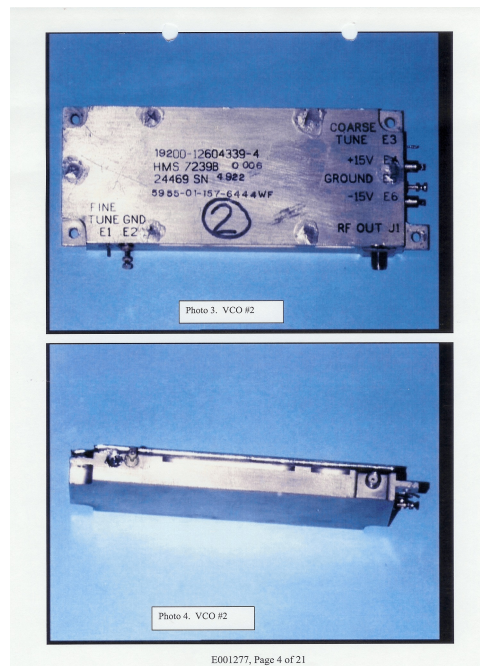
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**THE PRODUCTS: VCOs and POWER HEADS**

5. Defendant HERLEY INDUSTRIES bid on and was awarded contracts to supply electronic components of aircraft radar systems to the United States military both directly

and through the military's prime contractors. Among the components supplied by HERLEY INDUSTRIES were a voltage controlled oscillator used by the Air Force in F-16 fighter jet radar systems (the "VCO"), and a power head used by the Navy in its E2-C planes stationed on aircraft carriers (the "Power Head").

6. Defendant HERLEY INDUSTRIES through Herley-Vega manufactured and sold the VCOs to the Air Force and military contractors. The VCO, pictured below, was a single component about six inches long, two inches deep and less than an inch high, that weighed a few ounces, and contained a signal generator and an oscillator that amplified the signal. In simplified, layman's terms, the VCO created a signal that was used by on-board F-16 radar systems to track objects in the sky and on land. Although the military had tried to develop other sources, Herley-Vega was the only company that was successful at manufacturing VCOs to the Air Force's specifications, and therefore the only company from which the Air Force could buy VCOs.



**VCO**

7. Before its acquisition by defendant HERLEY INDUSTRIES, General Microwave manufactured and sold Power Heads to the Navy and Navy contractors. It also had a long-term contract with Lockheed Martin to repair damaged Power Heads. The Power Head, pictured below, was a thin film or element, suspended in a housing or subsassembly, and connected to it by wires or cables. In simplified, layman's terms, the planes that used Power Heads had on-board radar systems that tracked objects on the ground and in the air. Each plane had a power meter, and each power meter had two Power Heads. The Power Heads functioned as fuses between the power source and the radar. They protected the radar from power surges that might harm the radar system. Each Power Head was about the size of a coffee mug, and each power meter was about the size of a ten by ten by six inch box. A Power Head weighed about one pound. General Microwave was the only company that was successful at manufacturing this component to the Navy's specifications, and therefore the only company from which the Navy could buy the Power Heads.



8. The only Navy planes that used Power Heads were E2-C planes stationed on Navy carriers. The E2-C, also known as the "Hawkeye," was a tactical, airborne monitoring

system. Each Navy carrier with E2-C planes equipped with Power Heads had a supply of extra Power Heads on board. When a Power Head failed, the Navy immediately replaced it with a functioning Power Head, either repaired or new. At the same time, the Navy shipped Power Heads needing repair to Lockheed Martin. Lockheed Martin, in turn, had General Microwave and later defendant HERLEY INDUSTRIES, through its General Microwave division, make the necessary repairs.

### **THE CONTRACTING PROCESS FOR SOLE SOURCE PRODUCTS**

9. Government purchase contracts, including those by the military, were governed by federal procurement regulations, called the Federal Acquisition Regulations (or the “FAR”).

10. Where there was one supplier of a product (so-called “sole-source” procurements), the military did not engage in a competitive bidding process, but rather initiated its procurement by soliciting a bid directly from the supplier.

11. For each contract at issue in this indictment, the military used a type of contract known as a “firm fixed price contract.” Under a firm fixed price contract, for the entire term of the contract, the price to be paid for the product is fixed at the time the parties enter the contract: changed circumstances which increase or decrease costs will not change the contract purchase price, that is, the contract price is settled (firm) and unchanging (fixed).

12. The contracting process for a firm fixed contract between the military and a sole source supplier such as defendant HERLEY INDUSTRIES was as follows. A civilian employee of the Navy or Air Force with procurement responsibilities (sometimes called a “contracting officer”) issued a request for a proposal (“RFP”), which solicited a quotation or bid

from defendant HERLEY INDUSTRIES for the needed product. In the procurements at issue here, the employee sent that RFP to the HERLEY INDUSTRIES division that produced the VCOs or the Power Heads. In response, if defendant HERLEY INDUSTRIES wanted the contract, its division would submit a quotation for the solicited product. With its quotation, the military required HERLEY INDUSTRIES to submit a cost breakdown, that is, an explanation and justification of the quotation HERLEY INDUSTRIES gave the military, as well as a cover sheet, called the Standard Form (“SF”) 1411.

13. On the SF 1411, defendant HERLEY INDUSTRIES as the bidder certified that:

This proposal is submitted in response to the solicitation, contract, modification, etc. on item 1 and reflects our estimates and/or actual costs as of this date. . . . By submitting this proposal, the offeror, if selected for negotiation, grants the contracting officer and authorized representative(s) the right to examine, at any time before award, those records, which include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or any other form, or whether such supporting information is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of the proposed price.

14. Federal regulations required that the quotation and analyses submitted by a bidder such as defendant HERLEY INDUSTRIES were to be based on the company’s prior experience, modified, if necessary, by any changed circumstance or reasonably believed likely changed circumstance, that is, by reasonable estimates. The contractor’s prior experience was called its “historical” data.

15. In addition, in a sole source procurement of over \$500,000, the government procurement officer could request a “pre-award audit” of the quotation. Such pre-

award audits were conducted by employees of the Defense Contract Audit Agency (“DCAA”) and the Defense Contract Management Command (“DCMC”).

16. In a pre-award audit, the government’s auditors reviewed the bid proposal submitted by the contractor against the contractor’s historical data, and examined the reasonableness of the contractor’s estimates, as well as any other assumptions which it had incorporated into its bid. The pre-award audit served to ensure that, even though there was no competition for the contract, the bid price was reasonable and justified on the basis of past experience (historical data). The auditor typically gave an initial oral summary of his or her findings to the procurement specialist, and later issued a final report.

17. After the pre-award audit, the parties entered into final negotiations. One of the responsibilities of the military’s negotiator, the contracting officer, was to determine whether the company’s anticipated profits were reasonable in light of the relative risk taken in entering into the contract.

18. When the parties reached agreement, whether oral or in writing, about the terms of the contract, the contractor’s negotiator sent a confirming letter setting forth the agreed-upon price. At the same time, the contractor executed and presented to the government with this confirming letter a Certificate of Current Cost and Pricing Data.

19. The military required the contractor under a sole source contract of over \$500,000 to sign a Certificate of Current Cost Pricing Data.

20. The Certificate of Current Cost and Pricing Data, like the SF 1411, attested that the information supplied by the contractor, on the basis of which the military negotiated the contract price, was current, accurate and complete. It provided:

This is to certify that, to the best of my knowledge and belief, the cost or

pricing data. . . . submitted, either actually or by specific identification in writing, to the contracting officer or the contracting officer's representative in support of [the solicitation] are accurate, complete and current as of [date of agreement].

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**DEFENDANTS' SCHEME TO DEFRAUD**

21. From in or about at least April 2000 through in or about December 2002, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

devised and intended to devise a scheme to defraud the United States government and one of its prime contractors, Lockheed Martin, and to obtain money and property, that is, approximately \$ 3,934,203, by means of false and fraudulent pretenses, representations and promises.

It was part of the scheme that:

22. In each case, defendant LEE BLATT dictated the amount of the fraudulent quote and the fiction that was used to justify it.

23. In each case, defendant LEE BLATT dictated that defendant HERLEY INDUSTRIES represent that obsolescence required a new manufacturing process.

24. In each case, defendant LEE BLATT dictated the amount of a fraudulent quotation for the part to be purchased intra-company.

25. In each case, defendant LEE BLATT directed that the division of defendant HERLEY INDUSTRIES issuing the quotation represent that, as part of the supposedly new manufacturing process, it would "buy" an expensive part from another division of defendant HERLEY INDUSTRIES to remedy the obsolescence.

26. In each case, defendant LEE BLATT directed an executive from another division of defendant HERLEY INDUSTRIES, who defendant BLATT knew was



unfamiliar with the product or its costs, to create a document which defendant BLATT then had defendant HERLEY INDUSTRIES use to misrepresent some or all of the costs of the product or to support those misrepresented costs.

27. In each case, after the United States had agreed to contracts with defendant HERLEY INDUSTRIES for VCOs and Power Heads at vastly increased prices, defendant LEE BLATT and another executive of defendant HERLEY INDUSTRIES directed defendant HERLEY INDUSTRIES to manufacture the VCOs and Power Heads using the same parts and methods of manufacture it always had used. By these means, defendant BLATT gained for defendant HERLEY INDUSTRIES secret profits in excess of approximately 250% of its costs on one component, and approximately 300% on another.

28. In each case, defendant LEE BLATT took steps to set up a paper trail to make it fraudulently appear that some unexpected event allowed the company to revert to the cheaper, old process.

29. In each case, to effect the scheme, officers and employees of defendant HERLEY INDUSTRIES took actions and made representations in furtherance of the scheme, even when the officers and employees knew that those actions and representations were deceptive, without foundation, false and fictitious.

**BACKGROUND TO THE VCO FRAUD SCHEME:  
AVAILABILITY OF THE NEC TRANSISTOR**

30. Essential to defendant HERLEY INDUSTRIES' manufacture of the VCO , through its Herley-Vega division, was a transistor manufactured by NEC Electronics ("the NEC Transistor"). This high performance transistor enabled defendant HERLEY INDUSTRIES' Herley-Vega division to meet the military's stringent performance requirements for the VCO,

including that the VCO function at high frequencies in high temperatures with low noise.

31. NEC stopped manufacturing the NEC Transistor in or about 1994.

Nonetheless, defendant HERLEY INDUSTRIES' Herley-Vega division continued to buy the NEC Transistor from various suppliers, and continued to use those transistors in its VCOs.

Defendant HERLEY INDUSTRIES' Herley-Vega division also used the NEC Transistor in space transponders purchased by the Boeing Corporation ("Boeing") and the Lockheed Martin Corporation ("Lockheed Martin") to track the flight launch paths of space rockets.

32. At some time after NEC stopped manufacturing the NEC Transistor and before November 1999, defendant HERLEY INDUSTRIES' Herley-Vega division offered both Boeing and Lockheed Martin the opportunity to buy and keep secure with defendant HERLEY INDUSTRIES' Herley-Vega division a supply of the NEC Transistors. Boeing accepted the offer; Lockheed Martin did not.

**PUTTING THE SCHEME IN PLACE:  
THE 2000 VCO QUOTATION**

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33. On or about April 4, 2000, in response to an urgent Air Force request for a price quotation for VCOs, defendant LEE BLATT directed that defendant HERLEY INDUSTRIES' Herley-Vega division quote a price of \$8,735 for each VCO for "expedited" delivery, and \$4,760 each for delivery to begin 13 months after the contract was awarded. Defendant BLATT also dictated the rationale for these prices quoted to the military.

34. Defendant LEE BLATT knew that these prices were not based on defendant HERLEY INDUSTRIES' Herley-Vega division's historical costs, and did not reflect true estimates. To justify the quoted prices, defendant BLATT caused executives at defendant HERLEY INDUSTRIES' Herley-Vega division to make representations to the government that

were false, fictitious and fraudulent.

35. The false quotations and cost representations inflated labor requirements and concomitant labor costs allegedly caused by an accelerated delivery schedule, but assumed that defendant HERLEY INDUSTRIES' Herley-Vega division would use the NEC Transistor in its manufacture of the 84 VCOs.

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**FALSE STATEMENTS IN THE MAY 2000 DCAA PRE-AWARD AUDIT**

36. On or about on May 9, 2000, the government notified defendant HERLEY INDUSTRIES' Herley-Vega division that it would conduct a pre-award audit of Herley-Vega's quotation for expedited delivery of 84 VCOs. The DCAA auditor also notified Herley-Vega that he would review Herley-Vega division's actual costs on defendant HERLEY INDUSTRIES' earlier, 1999 contract for 20 VCOs, also delivered on an expedited basis.

37. On or about May 9, 2000, to preserve his arbitrarily inflated price for the VCOs, defendant LEE BLATT told executives of defendant HERLEY INDUSTRIES' Herley-Vega division that they could not use any of the stock of NEC Transistors for the pending contract for 84 VCOs.

38. When, as defendant LEE BLATT knew would happen, defendant HERLEY INDUSTRIES' Herley-Vega division could not locate in a one-day search any supplier of the NEC Transistor, defendant BLATT told HERLEY INDUSTRIES' Herley-Vega division that its sister division, the newly acquired Robinson Labs, would design, develop, manufacture and supply a substitute for the NEC Transistor.

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**CREATION OF THE FAKE ROBINSON LABS BID**

39. On or about May 17, 2000, defendant LEE BLATT directed a HERLEY INDUSTRIES executive located at the Woburn, Massachusetts division to generate a document

that would appear to be a bid from defendant HERLEY INDUSTRIES' Robinson Labs division to manufacture the substitute part. Defendant BLATT knew that this executive was not familiar with the manufacture of VCOs, and was neither in the Herley-Vega division nor the Robinson Labs division of defendant HERLEY INDUSTRIES. Defendant BLATT intended that the government treat this document as a genuine bid, when, as he knew, it was not.

40. On or about May 22, 2000, defendant LEE BLATT caused this executive to fax to HERLEY INDUSTRIES' Herley-Vega division the fake Robinson Labs bid to provide 84 "substrate assemblies" for \$1,629 each.

41. As intended by defendant LEE BLATT, on or about May 30, 2000, defendant HERLEY INDUSTRIES' Herley-Vega division informed the DCAA auditor that the company could not use its stock of NEC Transistors to build the 84 VCOs, but had to increase its quoted price for accelerated delivery of 84 VCOs because of the additional costs attributable to the efforts of defendant HERLEY INDUSTRIES' Robinson Labs division in creating the necessary substitute part.

42. On or about May 30, 2000, in an attempt to justify the price for 84 VCOs which defendant LEE BLATT had set and arbitrarily inflated, defendant HERLEY INDUSTRIES' Herley-Vega division falsely and fraudulently represented that it had spent \$18,000 on the 1999 contract for VCOs for work done by Syracuse University on that contract. Syracuse University had done no work on the 1999 VCO contract with the government.

43. On or about June 1, 2000, in support of the inflated price quoted at defendant LEE BLATT's direction, defendant HERLEY INDUSTRIES' Herley-Vega division falsely represented to the Air Force contracting officer that it had no NEC Transistors available

for the VCO contract.

44. On or about June 1, 2000, as a result of defendant HERLEY INDUSTRIES' Herley-Vega division's false, fraudulent and fictitious representations to the DCAA auditor and the Air Force contracting officer, the Air Force agreed to pay defendant HERLEY INDUSTRIES \$8,700 each for 84 VCOs. As defendant LEE BLATT knew, that price had no basis in actual or estimated costs.

45. On or about June 12, 2000, defendant HERLEY INDUSTRIES submitted a second form SF 1411 to the Air Force, falsely certifying that its bid was based on its actual costs and estimates.

46. After a delay of several months, defendant LEE BLATT and another executive of defendant HERLEY INDUSTRIES directed defendant HERLEY INDUSTRIES' Herley-Vega division to make the 84 VCOs with its existing supply of available NEC Transistors.

#### **DELIVERY OF/BILLING AND PAYMENT FOR VCOs**

47. From in or about August 2000 through on or about November 28, 2000, defendant HERLEY INDUSTRIES shipped a total of 84 VCOs to Hill Air Force Base in Utah, in satisfaction of its June 2000 contract with the Air Force.

48. With each shipment, defendant HERLEY INDUSTRIES included a Request for Payment Form, known as a Form DD250, for the shipped VCOs.

49. The Air Force authorized payment of each Form DD250 submitted by defendant HERLEY INDUSTRIES in connection with its deliveries of the 84 VCOs under the June 2000 contract.

50. From on or about September 27, 2000 through on or about December 22, 2000, the United States issued a total of six payments to defendant HERLEY INDUSTRIES for the 84 VCOs. Each of these payments was made by wire transfer from the Defense Finance and Accounting Service account in Columbus, Ohio to defendant HERLEY INDUSTRIES' account at M & T Bank, in Lancaster, Pennsylvania.

**EXPANDING THE SCHEME:  
THE 2001 NAVY POWER HEADS CONTRACT AND  
LOCKHEED MARTIN REPAIR CONTRACT**

51. Defendant LEE BLATT devised and executed a similar scheme of price inflation with respect to defendant HERLEY INDUSTRIES' contracts with the Navy for new Power Heads, and HERLEY INDUSTRIES's contract with Lockheed Martin for Power Head repairs.

52. On or about December 23, 2000, the Navy issued a request to defendant HERLEY INDUSTRIES' General Microwave division for a price quotation to manufacture 21 new Power Heads. The Navy later increased this procurement to 42 new Power Heads.

53. Immediately thereafter, in January 2001, defendant LEE BLATT caused defendant HERLEY INDUSTRIES' General Microwave division to advise the Navy and Lockheed Martin that defendant HERLEY INDUSTRIES would no longer make or repair the Power Heads. Defendant BLATT knew that defendant HERLEY INDUSTRIES' General Microwave division was the only source to the Navy and Lockheed Martin of Power Heads. As defendant BLATT expected, his announcement of withdrawal from Power Head production and repair caused grave concern with the Navy and Lockheed Martin, and defendant BLATT eventually agreed to have defendant HERLEY INDUSTRIES' General Microwave division

resume manufacture and repair of Power Heads, but at greatly inflated prices.

**BLATT'S DIRECTIONS TO SLOW DOWN WORK**

54. To artificially inflate demand by the Navy for large orders for new Power Heads, defendant LEE BLATT at various times directed defendant HERLEY INDUSTRIES' General Microwave division to cancel all open repair orders, to slow down repairs, to stop working on repairs, to limit repairs to recently manufactured equipment only, not to make any further repairs until payments had been received for evaluations of repair worthiness, and to return all material segregated for repairs to inventory in defendant HERLEY INDUSTRIES' General Microwave division.

55. Defendant LEE BLATT directed the negotiations with the Navy and Lockheed Martin for the prices quoted by defendant HERLEY INDUSTRIES' General Microwave division for new and repaired Power Heads. Defendant BLATT also supplied the rationale for these prices. As defendant BLATT knew, the negotiations of defendant HERLEY INDUSTRIES' General Microwave division with the government were subject to verification by a pre-award audit.

56. On or about January 8, 2001, defendant LEE BLATT directed that defendant HERLEY INDUSTRIES' General Microwave division quote to the Navy an arbitrarily inflated price of approximately \$19,500 each for new Power Heads. As negotiations continued, defendant BLATT caused an increase in the price quotation to \$19,897 per Power Head, and then a decrease to \$19,285 per Power Head.

57. As defendant LEE BLATT knew, none of the prices quoted by defendant HERLEY INDUSTRIES' General Microwave division was based on the true costs and expenses

of defendant HERLEY INDUSTRIES' General Microwave division. However, defendant BLATT took steps to make it appear that his arbitrarily inflated prices were justified on the basis of defendant HERLEY INDUSTRIES' General Microwave division's costs and expenses, and on the basis of its reduced yields on the production of Power Head elements.

58. Defendant LEE BLATT repeatedly made and directed officers and employees of defendant HERLEY INDUSTRIES' General Microwave division and others in defendant HERLEY INDUSTRIES to make false statements to the Navy and Lockheed Martin about the costs of producing and repairing Power Heads. For example, on or about March 9, 2001, defendant BLATT represented to Lockheed Martin that his "best estimate" of the cost of making the elements or films for the Power Heads, whether for repair or new, would be approximately \$4,500 each, even though defendant BLATT knew that defendant HERLEY INDUSTRIES' General Microwave division did not charge to be Power Heads production and repair contracts the labor and materials costs for the manufacture of elements for the Power Heads, because the costs were so low that they were simply incorporated into the division's overhead. The materials cost of elements for each Power Head was in the range of single dollars.

59. Defendant LEE BLATT falsely advised the Navy, and had others in defendant HERLEY INDUSTRIES do the same, with respect to which defendant HERLEY INDUSTRIES' division would do the work on Power Heads. Defendant BLATT knew that defendant HERLEY INDUSTRIES' General Microwave division in Long Island had historically performed all Power Head contracts, well before defendant HERLEY INDUSTRIES bought that company and made it a division of HERLEY INDUSTRIES. As one justification for the large price increase that defendant BLATT directed, he had defendant HERLEY INDUSTRIES'



General Microwave division contracting personnel falsely tell the Navy that Power Head production would be handled in part by defendant HERLEY INDUSTRIES' Herley-Vega division in Lancaster.

60. On or about April 3, 2001, defendant LEE BLATT directed the head of defendant HERLEY INDUSTRIES' Herley-Vega division to issue a quotation to defendant HERLEY INDUSTRIES' General Microwave division of approximately \$9,300 to manufacture each Power Head sub-assembly. He also dictated the rationale for that price.

61. To make it appear that the bid was based on actual costs and expenses, on or about April 27, 2001, defendant LEE BLATT faxed to defendant HERLEY INDUSTRIES' General Microwave division a set of false, fraudulent and fictitious rationales to use to justify the inflated price that defendant BLATT had directed defendant HERLEY INDUSTRIES' General Microwave division to quote for the Power Heads.

62. In support of his inflated quotations to the Navy, defendant LEE BLATT also caused defendant HERLEY INDUSTRIES' General Microwave division to falsely and fraudulently represent to the Navy that it had been authorized to spend \$100,000 on new equipment to build Power Head films, and that it had been directed to make 100 elements with current equipment, when defendant BLATT knew that neither representation was true.

**BLATT'S KNOWINGLY FALSE REPRESENTATIONS  
ON THE CERTIFICATE OF CURRENT COST AND PRICING DATA**

63. On or about June 14, 2001, defendant LEE BLATT signed a Certificate of Current Cost and Pricing Data for the contract with the Navy for 42 Power Heads, fraudulently representing that the cost and pricing data submitted by defendant HERLEY INDUSTRIES' General Microwave division was accurate, when he knew that it was not.

### **THE SECOND POWER HEADS ORDER**

64. Before the parties had reached agreement on the first Power Heads contract, on or about April 29, 2001, the Navy opened negotiations on a second order with defendant HERLEY INDUSTRIES' General Microwave division for an additional 50 Power Heads. Defendant HERLEY INDUSTRIES' General Microwave division responded with a bid of \$19,093 each.

65. The Navy later increased its second order to 139 Power Heads. On or about September 12, 2001, defendant HERLEY INDUSTRIES submitted a bid on the order for 139 Power Heads of approximately \$18,775 each.

### **LIMITING THE SUPPLY OF POWER HEADS**

66. On or about June 20, 2001, defendant LEE BLATT caused defendant HERLEY INDUSTRIES' General Microwave division to enter into a fraudulently renegotiated repair contract under which Lockheed Martin was to pay defendant HERLEY INDUSTRIES' General Microwave division \$6,500 per repair where the element was replaced. To induce Lockheed Martin and the Navy to agree to renegotiate the price for repairing a Power Head when the element was replaced, defendant BLATT had told Lockheed Martin that he estimated that the cost of manufacturing a new element alone was about \$4,500, when, as he knew, this representation was false and had no support in fact.

67. In or about July 2001, to ensure the continued demand from the Navy for orders of new Power Heads, defendant LEE BLATT issued directions to limit the number of Power Heads available to the Navy. Defendant BLATT directed that, until further notice, defendant HERLEY INDUSTRIES' General Microwave division not take any step to

manufacture (and therefore deliver) new Power Heads under the newly awarded contract. Defendant BLATT then had defendant HERLEY INDUSTRIES' General Microwave division tell Lockheed Martin that deliveries of repaired Power Heads would not begin until September 2001, and would then proceed at the rate of 5 Power Heads every two months starting at the end of November.

#### **THE PRE-AWARD AUDIT OF THE BID FOR 139 POWER HEADS**

68. As defendant LEE BLATT knew would occur, the Navy ordered a pre-award audit of defendant HERLEY INDUSTRIES' bid.

69. In the course of that government audit, and to support his inflated prices, defendant LEE BLATT had defendant HERLEY INDUSTRIES' employees make numerous statements to the DCAA and DCMC auditors that defendant BLATT knew were false. In particular, defendant BLATT directed defendant HERLEY INDUSTRIES' employees to misstate the costs and labor hours needed to manufacture the Power Heads. Defendant BLATT also directed the creation of phony documents to give the government auditors to support the prices.

70. On or about July 24, 2001, defendant LEE BLATT caused defendant HERLEY INDUSTRIES' General Microwave division falsely and fraudulently to represent to a DCAA auditor that housings for the Power Heads would be made by defendant HERLEY INDUSTRIES' Herley-Vega division, and sold to its General Microwave division at a cost of approximately \$9,300 each.

71. On or about September 26 and October 16, 2001, at defendant LEE BLATT's direction, defendant HERLEY INDUSTRIES' General Microwave division knowingly sent false, fictitious and fraudulent cost data to support defendant BLATT's quoted price,

including a cost sheet, a materials cost summary sheet, a fictitious cost breakdown for manufacturing the films, a cost breakdown of labor hours, a quotation from defendant HERLEY INDUSTRIES' Herley-Vega division for the sub-assembly, quotations and estimates of materials costs, a memo regarding yield, and "yield" data that was inaccurate and incomplete. Defendant BLATT had approved the creation and transmission of all of this information.

72. On or about December 4, 2001, to increase pressure on the Navy, defendant LEE BLATT directed that defendant HERLEY INDUSTRIES' General Microwave division still not begin manufacture of the 42 Power Heads it had contracted to build in June 2001.

73. On or about January 28, 2002, to increase pressure on the Navy, defendant LEE BLATT directed that defendant HERLEY INDUSTRIES' General Microwave division stop work on repairs.

74. Government auditors asked for data on defendant HERLEY INDUSTRIES' General Microwave division's costs, expenses and yields on the first contract for 42 Power Heads. In response, on or about February 18, 2002, defendant LEE BLATT replaced the negotiator for HERLEY INDUSTRIES' General Microwave division with someone from defendant HERLEY INDUSTRIES' Chicago office who, as defendant BLATT knew, had no direct knowledge about Power Head costs, expenses or yields.

75. On or about February 20, 2002, in response to a DCMC request for information about defendant HERLEY INDUSTRIES' General Microwave division's actual hour experience for the current number of element builds, defendant LEE BLATT caused his new negotiator to make false, fraudulent and misleading representations, on the basis of which

defendant HERLEY INDUSTRIES' General Microwave division and the government negotiated a final price.

76. On or about February 20, 2002, defendant HERLEY INDUSTRIES and the Navy negotiated a price of \$17,403 each for 139 Power Heads on the basis of false, fraudulent and misleading information.

77. On or about February 20, 2002, defendant LEE BLATT caused defendant HERLEY INDUSTRIES' negotiator to execute a Certificate of Current Cost and Pricing Data, that defendant BLATT knew was false, fraudulent and fictitious.

78. On or about February 20, 2002, the same day that defendant LEE BLATT learned that the parties had reached an agreement on price for the 139 Power Heads, defendant BLATT directed defendant HERLEY INDUSTRIES' General Microwave division to begin to manufacture the Power Heads under the June 2001 contract. At the same time, defendant BLATT ordered defendant HERLEY INDUSTRIES' General Microwave division to cancel its outstanding purchase order to defendant HERLEY INDUSTRIES' Herley-Vega for subassemblies, which defendant BLATT had used as a ruse to support the price increase.

79. On or about February 20, 2002, to conceal the fraud, defendant LEE BLATT ordered that, if asked, defendant HERLEY INDUSTRIES' General Microwave division state that it had unexpectedly "found" subassemblies and materials, and therefore did not need to order the subassemblies from defendant HERLEY INDUSTRIES' Herley-Vega division.

80. In a February 21, 2002 letter memorializing answers to questions posed by the Navy during negotiations, and defendant HERLEY INDUSTRIES' responses, defendant HERLEY INDUSTRIES' General Microwave division misrepresented to the Navy that the actual

experience for the current number of element builds was 48.3 hours labor per element.

Defendant LEE BLATT directed this response and knew that it was false.

81. Defendant LEE BLATT also directed defendant HERLEY INDUSTRIES' General Microwave division to conceal the fraud further by keeping its books so as not to allocate to the contract the costs of the materials for the 139 Power Heads. Defendant BLATT also directed that the cost of the subassemblies not be allocated to the contract for 139 Power Heads, but that only labor be charged.

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**DELIVERY OF/BILLING FOR POWER HEADS**

82. From on or about April 5, 2002, through on or about October 31, 2002, defendant HERLEY INDUSTRIES' General Microwave division shipped 181 Power Heads to the Naval Inventory Control Point, in satisfaction of its June 2001 and February 2002 contracts with the Navy.

83. With each shipment, defendant HERLEY INDUSTRIES included a request for payment, Form DD250, for the Power Heads.

84. The Navy authorized payment of each Form DD250 submitted by defendant HERLEY INDUSTRIES for its deliveries of the 42 Power Heads under the June 2001 contract, and 139 Power Heads under the February 2002 contract.

85. From on or about April 5, 2002, through on or about December 2, 2002, the United States military issued a total of approximately 27 payments to defendant HERLEY INDUSTRIES for the delivery of the 181 Power Heads. Each of these payments was made by wire transfer from the Defense Finance and Accounting Service account in Columbus, Ohio to defendant HERLEY INDUSTRIES' account at M & T Bank in Lancaster, Pennsylvania.

86. On or about each of the dates set forth below, in Lancaster, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

for the purpose of executing the scheme described above, and aiding and abetting and willfully causing its execution, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below, each transmission constituting a separate count.

COUNT	DATE OF WIRE TRANSMISSION (OHIO TO PENNSYLVANIA)	PAYMENT TO HERLEY	COMPONENT
1	November 29, 2000	\$130,514.12	VCO
2	December 18, 2000	\$ 78,308.62	VCO
3	December 21, 2000	\$ 87,010.82	VCO
4	December 28, 2000	\$ 69,608.07	VCO
5	January 29, 2001	\$ 8,704.22	VCO
6	January 29, 2001	\$ 78,313.57	VCO
7	June 25, 2002	\$207,163.28	NEW POWER HEADS
8	July 3, 2002	\$172,637.12	NEW POWER HEADS
9	July 17, 2002	\$120,851.03	NEW POWER HEADS
10	July 17, 2002	\$ 51,794.73	NEW POWER HEADS
11	August 5, 2002	\$ 86,323.54	NEW POWER HEADS
12	August 19, 2002	\$103,586.98	NEW POWER HEADS
13	August 19, 2002	\$ 51,794.73	NEW POWER HEADS
14	August 26, 2002	\$120,850.48	NEW POWER HEADS
15	August 29, 2002	\$189,900.46	NEW POWER HEADS
16	September 4, 2002	\$172,636.96	NEW POWER HEADS

COUNT	DATE OF WIRE TRANSMISSION (OHIO TO PENNSYLVANIA)	PAYMENT TO HERLEY	COMPONENT
17	September 30, 2002	\$ 86,321.11	NEW POWER HEADS
18	September 30, 2002	\$172,636.96	NEW POWER HEADS
19	September 30, 2002	\$ 86,315.00	NEW POWER HEADS
20	October 4, 2002	\$ 86,321.11	NEW POWER HEADS
21	October 18, 2002	\$ 86,321.11	NEW POWER HEADS
22	October 24, 2002	\$ 86,321.11	NEW POWER HEADS
23	October 24, 2002	\$ 86,321.11	NEW POWER HEADS
24	November 4, 2002	\$ 86,321.11	NEW POWER HEADS
25	November 8, 2002	\$ 51,789.00	NEW POWER HEADS
26	November 14, 2002	\$ 86,323.54	NEW POWER HEADS
27	November 25, 2002	\$ 51,796.57	NEW POWER HEADS
28	November 29, 2002	\$ 86,323.54	NEW POWER HEADS
29	December 9, 2002	\$ 69,060.10	NEW POWER HEADS

All in violation of Title 18, United States Code, Sections 1343 and 2.



**COUNT THIRTY**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 20 and 22 through 85 of Count One are incorporated here.

2. In or about April 2001, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

with intent to deceive and defraud the United States, endeavored to influence, obstruct and impede, and aided and abetted and willfully caused the endeavor to influence, obstruct and impede, a Federal auditor in the performance of official duties relating to a person receiving in excess of \$100,000, directly and indirectly, from the United States in a 1-year period under a contract, that is, relating to defendant HERLEY INDUSTRIES, when defendant BLATT caused defendant HERLEY INDUSTRIES' General Microwave division to submit in a pre-award audit false, fictitious and fraudulent cost and pricing data in support of defendant HERLEY INDUSTRIES' bid on 42 Power Heads.

In violation of Title 18, United States Code, Sections 1516 and 2.

**COUNT THIRTY-ONE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 20 and 22 through 85 of Count One are incorporated here.

2. On or about June 14, 2001, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

in a matter within the jurisdiction of the United States Navy, an armed service of the Department of Defense, part of the executive branch of the United States, knowingly aided and abetted and willfully caused the making of materially false, fictitious, and fraudulent statements and representations to the United States Navy when defendant BLATT signed and caused to be submitted for defendant HERLEY INDUSTRIES a Certificate of Cost and Pricing Data which defendant BLATT knew misrepresented the cost and pricing data supporting defendant HERLEY INDUSTRIES' price quoted for 42 Power Heads.

In violation of Title 18, United States Code, Sections 1001 and 2.

**COUNT THIRTY-TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 20 and 22 through 85 of Count One are incorporated here.

2. In or about January 2002, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

with intent to deceive and defraud the United States, endeavored to influence, obstruct and impede, and aided and abetted and willfully caused the endeavor to influence, obstruct and impede, a Federal auditor in the performance of official duties relating to a person receiving in excess of \$100,000, directly and indirectly, from the United States in a 1-year period under a contract, that is, relating to defendant HERLEY INDUSTRIES, when defendant BLATT caused defendant HERLEY INDUSTRIES' General Microwave division to submit to the Defense Contract Audit Agency in a pre-award audit false, fictitious and fraudulent cost and pricing data in support of defendant HERLEY INDUSTRIES' price quoted for 139 Power Heads.

In violation of Title 18, United States Code, Sections 1516 and 2.

**COUNT THIRTY-THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 20 and 22 through 85 of Count One are incorporated here.
2. On or about February 20, 2001, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

in a matter within the jurisdiction of the United States Navy, an armed service of the Department of Defense, part of the executive branch of the United States, knowingly aided and abetted and willfully caused the making of materially false, fictitious, and fraudulent statements and representations to the United States Navy, when defendant BLATT caused defendant HERLEY INDUSTRIES' General Microwave division to submit false, fictitious and fraudulent data misrepresenting the experience of defendant HERLEY INDUSTRIES' General Microwave division in manufacturing elements under its contract with the United States Navy for 42 Power Heads, when, at defendant BLATT's direction, no such manufacturing had yet occurred.

In violation of Title 18, United States Code, Sections 1001 and 2.

**COUNT THIRTY-FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 20 and 22 through 85 of Count One are incorporated here.

2. On or about the February 21, 2002, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

knowingly executed and attempted to execute a scheme and artifice to defraud the United States and to obtain money by means of false and fraudulent pretenses, representations and promises in a procurement of property as a prime contractor with the United States, where the value of the contract for such property was \$1,000,000 or more, when defendant BLATT caused defendant HERLEY INDUSTRIES to submit to the United States Navy inflated quotations of costs and pricing, and false documentation in support of those quotations, and to misrepresent these quotations and their bases, knowing that these submissions and representations were false, fictitious and fraudulent, and knowing that it was in reliance on that false and fraudulent basis that the Navy negotiated with and awarded to defendant HERLEY INDUSTRIES a contract for 139 Power Heads for \$2,399,557.

In violation of Title 18, United States Code, Sections 1031 and 2.

**COUNT THIRTY-FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 20 and 22 through 85 of Count One are incorporated here.

2. On or about February 21, 2001, in the Eastern District of Pennsylvania and elsewhere, defendants

**LEE BLATT and  
HERLEY INDUSTRIES, INC.,**

in a matter within the jurisdiction of the United States Navy, an armed service of the Department of Defense, part of the executive branch of the United States, knowingly aided and abetted and willfully caused the making of materially false, fictitious, and fraudulent statements and representations to the United States Navy, when defendant BLATT caused an executive of defendant HERLEY INDUSTRIES to sign and submit for defendant HERLEY INDUSTRIES a Certificate of Cost and Pricing Data that defendant BLATT knew misrepresented the cost and pricing data supporting defendant HERLEY INDUSTRIES' price quoted for 139 Power Heads.

In violation of Title 18, United States Code, Sections 1001 and 2.

### **NOTICE OF FORFEITURE**

As a result of the violations of Title 18, United States Code, Sections 1343 set forth in counts 1 through 29 of this Indictment, defendants

#### **LEE BLATT and HERLEY INDUSTRIES, INC.**

shall forfeit to the United States of America any and all property, real and personal, that constitutes proceeds of such violations or is derived from proceeds traceable to such violations, including, but not limited to, the sum of \$2,852,170.10.

If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and 28 U.S.C.

Section 2461(c).

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN  
UNITED STATES ATTORNEY**